8157404/2023/TW-LTR-I-SOW01

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

TRIBAL WELFARE DEPARTMENT - LTR - Revision Petition filed by sri D.Surya Rao, S/o. Late Veerraju, R/o. Veerabhadrapuram Village, Addateegala Mandal, East Godavari District presently in Alluri Sitharamaraju District against the orders of the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District in C.M.A. No : 13/2007, dated: 26.05.2009 in respect of land an extent of Acs. 2.41 cts in Survey No: 9/1 situated at Veerabhadrapuram (V), Addateegala (M), Alluri Sitharamaraju District erstwhile East Godavari District - Dismissed - Orders - Issued.

SOCIAL WELFARE (TW.LTR.I) DEPARTMENT

G.O.MS.No.63 **Dated: 30.10.2023**

Read the following:

1. Revision Petition filed by Sri D. Surya Rao, S/o. Late Veerraju R/o. Veerabhadrapuram Village, Addateegala Mandal, Alluri Sitharamaraju District dated.03.08.2009.
2. From the Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District, C.M.A. No.13/2007, dated:17.01.2013.

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ORDER:

In the reference 1st read above, Sri D.Surya Rao, S/o. Late Veerraju, R/o.Veerabhadrapuram Village, Addateegala Mandal, Alluri Sitharamaraju District erstwhile East Godavari District against the orders of the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District in CMA No.13/2007, dated: 26.05.2009 in respect of land an extent of Acs. 2.41 cts in Survey No: 9/1 situated at Veerabhadrapuram (V), Addateegala (M), Alluri Sitharamaraju District erstwhile East Godavari District.

2. **Brief history of the subject case:**

a) The Special Deputy Tahasildar (TW), Addateegala (M), Alluri Sitharamaraju District has filed a Complaint under section 3(1)(a) A.P.S.A.L.T.R., 1959 as amended by Regulation 1/70 for restoration of Petition Scheduled land after ejecting the non-tribal respondents (i.e. Desamsetti Surya Rao and (5) others).

b) The Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District after due enquiry Sri Desamsetti Surya Rao filed a suit against the other respondents before the Agent to Government,

(P.T.O.)

erstwhile East Godavari District, Kakinada for recovers of possession of the land in R.S.No.9/1A Ac.2.41 of Verabhadrapuram village of Addateegala Agency Mandal, Alluri Sitharamaraju District. After due enquiry the Agent to Government, Kakinada disposed the suit on 01.07.2000 with a direction to enquire the issue under LTR as it involves Non-tribal to Non-tribal transaction through lease hit by provisions of land Transfer Regulations. Further 1st respondent purchased land from another Non-tribal Chappara Laxmi vide 970/46, dated.26.10.1946 and no evidence is there in support of Non-tribal possession of land by 1917. As per the section 3 (1) (b) of Regulation 1/59 as amended by 1/70 the possession of a person who is not a member of Scheduled Tribe or any property situated in Agency tract shall be presumed to have been acquired by such person or predecessor in possession through a transfer made by a member of S.T. The High Court of A.P. in W.P.13377/86, 13470/86, W.A.78/91 and 1664/88 dt.17.2.1993 held that even without reference to any actual transfer mere possession of the property in agency tract by a non-tribe raised the presumption u/s 3 (1)(b) to the efect that such possession was obtained only on a transfer made by a S.T. which is hit by sec.3 (1) (a) and the land can be restored back to a tribal U/s.3(1)(a). In present case the P.S. land is purchased by the respondent from Non-tribe Smt.Chappara Laxmi and the respondent failed to prove as to how the vendor got Petition Scheduled land prior to 1946. Hence as per section 3 (1)(b) of the Regulation 1/59 as amended by 1/70 it is preserved that the possession of P.S. land by the Non-tribal vendor of the sale 1946 was obtained only on a transfer made by a tribal thereby hit by Sec.3(1)(b).

c) Hence, the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District under section 3(2) (a) of APSALTR 1/59 as amended by 1/70 has ordered for ejection of Petition Scheduled land to an extent of Ac.2.41 in R.S.No.9/1A from the respondents and keep the possession with the Government for onward assignment to landless tribals vide LTRP No.83/2000, dated.08.03.2002.

d) Aggrieved by the orders of the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District, Sri D.Surya Rao, S/o. Late Veerraju, R/o. Veerabhadrapuram Village, Addateegala Mandal, Alluri Sitharamaraju District erstwhile East Godavari District has filed an appeal against the orders LTRP No. 83/2000, dated. 08.03.2002 before the Additional Agent to Govt. cum Project Officer, I.T.D.A., Rampachodavaram, Alluri Sitharamaraju District.

e) After careful examination of the matter, the Additional Agent to Government cum Project Ofcer, ITDA, Rampachodavaram has allowed the

appeal filed by the Sri D.Surya Rao, S/o. Late Veerraju, R/o. Veerabhadrapuram Village, Addateegala Mandal, Alluri Sitharamaraju District erstwhile East Godavari District with regard to the scheduled property covered by measuring Acs. 2.41 in R.S.No.9/1 situated at Veerabhadrapuram (V) of Addateegala Mandal, Alluri Sitharamaraju District erstwhile East Godavari District and in CMA No. 13/2007, dated: 26.05.2009, uphold the orders passed by the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District in LTRP No.83/2000, dated.08.03.2002.

3. Aggrieved by the above orders, the Sri D.Surya Rao, S/o. Late Veerraju, R/o. Veerabhadrapuram Village, Addateegala Mandal, Alluri Sitharamaraju District erstwhile East Godavari District has fled a Revision petition dated: 03.08.2009, before the Government of A.P., against the orders of the Additional Agent to the Govt. cum Project Ofcer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in CMA No. 13/2007, dated: 26.05.2009 in respect of land an extent of Acs. 2.41 in R.S.No.9/1 situated at Veerabhadrapuram (V) of Addateegala Mandal, Alluri Sitharamaraju District with a request to set aside the orders in CMA No.13/2007, dated: 26.05.2009 in the interest of justice and pass such other or others as this Hon'ble Govt. may deem fit and proper in the circumstances of the case.

4. The Project Ofcer, ITDA, Rampachodavaram cum the Additional Agent to the Government has been requested to furnish the detailed Parawise remarks and connected records in the subject case so as to dispose of the Revision Petition at Government level. Accordingly, the Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in his letter dated:17.01.2013 has enclosed the copy of order issued by the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District passed in CMA No. 13/2007, dated: 26.05.2009 and the remarks on the afdavit fled by the Petitioner.

5. The said Revision Petition has been posted for hearing before the Hon'ble Revision Authority on several dates and fnally 26.08.2023 duly informing the same to the petitioner and defendants. During the course of the hearing and on perusal of the connected records/relevant materials and Para-wise Remarks submitted by the Project Ofcer, ITDA, Rampachodavaram cum Additional Agent to the Government, Rampachodavaram, Alluri Sitharamaraju District and written arguments fled by both parties counsels, the Revision Authority has observed that:

(I) This Memorandum of Revision Petition is filed by Sri D. Surya Rao, S/o. Late Veerraju (non-tribal), resident of Veerabhadrapuram (V), Addateegala (M), East Godavari District presently in Alluri Sitharamaraju

District against the orders of the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District with regard to lands admeasuring Acres: 2.41 cts in Survey No: 9/1A situated in Veerabhadrapuram (V), Addateegala (M), East Godavari District presently in Alluri Sitharamaraju District, passed in C.M.A No: 13/2007, Dated: 26.05.2009 dismissing the appeal, duly upholding the orders of the Special Deputy Collector(TW), Rampachodavaram, Alluri Sitharamaraju District passed in LTRP No. No.83/2000, dated: 8-3-2002 and ordering to restore the Petition Schedule land in favour of the State for onward assignment to eligible tribals.

(II) The matter came for hearing fnally before the Revision Authority on 26.08.2023. Counsel for the Revision Petitioner and the Special Deputy Collector were also present. Heard both sides. The counsel for the Revision Petitioner stated no objection to post the matter for orders. The following order is made after perusal of the material documents available on the record.

(III) The main grounds of the Revision Petitioner is that the sale transaction took place over the Petition Schedule land in 1946 between the non tribal parties prior to the commencement of the Land Transfer Regulations and therefore the authorities have no jurisdiction to entertain the proceeding, and his possession is not in violation of any provision of the Scheduled Area Land Transfer Regulations and no interest of the tribal involved in respect of the land in question and in support of his contention he also cited a Judgment of the Hon'ble High Court of A.P. reported in 1995 (3) ALD 222 and the wherein it was held that an agreement of sale along with possession before 1970 is valid though the registration took place subsequently and requested to set aside the impugned order.

(IV) The Additional Agent to Govt. cum Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District erstwhile East Godavari District furnished para-wise remarks and connected records, opposing the contention of the Revision Petitioner.

(V) The Additional Agent to Government contended that the Revision Petitioner purchased land from another non-tribal Smt.Chuppara Laxmi vide 970/46 dated.26.10.1946 and no evidence is there in support of Non-tribal possession of land since 1917 and as per the section (1) (b) of Land Transfer Regulation 1/59 as amended by 1/70 and he possession of a person who is not a member of Scheduled tribe of any property situated in Agency tract shall be presumed to have been acquired by such person or predecessor in possession through a transfer made by a member of Scheduled tribe and Revision Petitioner failed to prove their continuous possession and enjoyment of the Petition Scheduled land and a lease

transaction involved between the non tribals which is hit by the LTRS and it is violation of the Land Transfer Regulation Provisions and requested to dismiss the Revision Petition.

(VI) The counsel for the Revision Petitioner filed a petition on 12-03-2022 seeking to bring Smt. Peddireddy Paparatnam, a legal heir, daughter of the Revision Petitioner Sri Desamsetty Suryarao who died during the pendency of the Revision Petition. The said Petition is allowed by the Revision Authority.

(VII) The background of cases and rival submissions give rise to the following point for consideration.

(VIII) The only question arises from the pleadings of the parties is that whether any prohibited land transfer is involved in the case under the provisions of AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70?

(IX) In the case of transfer of land situate within the scheduled areas in favour of a non-tribal either from a tribal or another non-tribal, is made absolutely void under the provisions of Sub-section (1) of Section 3, the Agent, Agency Divisional Officer or any other prescribed Officer, as the case may be, is bound to restore the said land to the non-tribal transferor under the provisions of Clause (a) of Subsection (2) of Section 3 of the Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959 (Regulation I of 1959) as amended by Regulation I of 1970.

(X) The records reveal that the Revision Petitioner filed a suit O.S.12/96 against the other respondents/non-tribals before the Agent to Government. erstwhile East Godavari District, Kakinada for recovery of possession of the land in R.S.No. 9/1A Ac.2.41 cts of Veerabadrapuram village of Addateegala Mandal and after due enquiry the Agent to Government disposed of the suit on 04.07.2000 with a direction to enquiry the issue under the provisions of Land Transfer Regulations as the suit matter involves a transaction held between nontribal to non-tribal through a lease.

(XI) In pursuance of the directions of the Agent to Government in O.S.No.12/96 the Special Deputy Tahsildar, Tribal Welfare, Addategala filed a complaint before the Special Deputy Collector, Tribal Welfare, Rampachodavaram in LTRP No. No.83/2000 who is a primary authority, against the Revision Petitioner and others for restoration of the Petition Schedule land in Survey No.9/1A extent Ac 2.41 cts to the Government alleging that the Revision Petitioner leased out the land to the other non-tribals, who are also respondents in the case.

(XII) The evidence before the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District of the Revision Petitioner is that his father Desamsetti Veerraju purchased the Petition Schedule Land from a Non-tribal Smt.Chuppara Lakshmi through a registered document bearing No.970/46, dated. 26.10.1946 and part of the land an extent of Ac. 0.50 cts was leased out to Smt. Pada Somarajamma, W/o. Apparao for Rs.3000/ and she further leased out the same to one Sarampudi Bhadram and the said land is in his possession. Similarly the Revision Petitioner himself leased out an extent of Ac.0.50 for Rs 2500/- to the family members of Ramisetti/ non tribals and the remaining extent Ac 1.40 cts is in his possession. During the cross examination he replied that he had no knowledge that how the land in question vested originally to chuppara family members/Non triabls.

(XIII) The records clearly prove a fact that a land transaction through a lease was effected between the non tribals after the commencement of AP Scheduled Area Land Transfer Regulations 1 of 70 which prohibits transfer of land between non tribals also. The suit filed by the Revision Petitioner is primarily proving a fact that the land in question was leased out to other non tribals.

(XIV) Section 2 (g) of the Land Transfer Regulations the word "Transfer" means mortgage with or without possession," lease," gift, exchange or any other dealing with immovable property, not being a testamentary disposition and includes a charge on such property or a contract relating to such property in respect of such mortgage, lease, gift, sale exchange or other dealing.

(XV) The High Court of AP (Vemana Somallamma Vs Deputy Collector, Tribal Welfare, Rampachodavaram-AIR 1993 AP 312) held that even without reference to any actual transfer mere possession of the property in agency tract by a non-tribal raised the presumption under section 3 (1) (b) to the efect that such possession was obtained only on a transfer made by a Scheduled Tribe which is hit by section 3 (1) (a). The High Court further held that " the object of the Regulations seem to be that all immovable property in agency tract as far as possible must be restored to Government or Tribals, as it was held by them at one time."

(XVI) The records show that there is a land transaction held between non tribals in 1946. This transaction is not hit by the provisions of Land Transfer Regulations 1 of 70. However the burden is on the purchaser how the vendor acquired the property in the scheduled area. Because the original Act namely the AP Agency Area Land Transfer Act 1917 was enacted to prohibit the transfer of lands between the hill tribes and non tribes in the scheduled area without prior permission from either the

District Collector or Sub Collector. The Revision Petitioner deposed before the primary authority that he had no knowledge how the land vested in the Chuppara family members who sold the land to them.

(XVII) The AP High Court held in Penmetsa Ramabhadri Raju case (1988(1) ALT 411) held that any transaction made after 14.08.1917 by the hill tribes to a non-tribal is absolutely void. In law there is no presumption as to when the transaction of sale or purchase has taken place. In view of the peremptory language in Section 4(1) of the AP Agency Tracts Interest and Land Transfer Act 1917, raising of presumption under section 3(1)(b) of the Regulation is of little consequence and the burden is always on the purchaser to establish that the purchase was validly made.

(XVIII) In exercise the powers conferred under section 6 of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 the Revision Petition filed by the Petitioner is hereby dismissed. Therefore the impugned order dated: 26-05-2009, passed by the Additional Agent to Government in C.M.A. No.13/2007 is hereby upheld. As a sequel interim orders if any passed in the matter are hereby vacated. Revision Petition is disposed of accordingly.

6. Government after careful examination of the revision petition and the circumstances stated supra and in exercise of the powers conferred under Section 6 of A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70, the orders passed by the Appellate Authority Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in CMA No. 13/2007, dated: 26-05-2009 are hereby upheld and the Revision petition filed by Sri D. Surya Rao, S/o. Late Veerraju (non-tribal), resident of Veerabhadrapuram (V), Addateegala (M), East Godavari District presently in Alluri Sitharamaraju District against with regard to land in an extent of 2.41 Hec. in Survey No: 9/1 situated at Veerabhadrapuram (V), Addateegala (M), East Godavari District presently in Alluri Sitharamaraju District is dismissed and Interim orders passed if any are hereby vacated in the matter.

7. The Collector & District Magistrate, Alluri Sitharamaraju District, Paderu is requested to take necessary action in the matter. Accordingly, acknowledge the receipt of the case records, which are returned herewith to the Additional Agent to Government/ Project Officer, Rampachodavaram, Alluri Sitharamaraju District.

8. This order shall be published in apegazette.cgg.gov.in.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT(TW)

8157404/2023/TW-LTR-I-SOW01

To

The Agent to Government/Collector & District Magistrate,
Paderu, Alluri Sitharamaraju District. PIN-530 011.
The Additional Agent to Govt. cum Project Officer,
ITDA, Rampachodavaram,
Alluri Sitharamaraju District, PIN-533 288. (w.e)
The Special Deputy Collector, Rampachodavaram,
Alluri Sitharamaraju District. PIN-533 288
The Tahsildar, Addateegala Mandal, Alluri Sitharamaraju District.
Sri Marri Babji, Advocate, Subrahmanyam Nagar, Near CTRI,
Rajahmundry, East Godavari District, Cell No.9490478581.
Sri K.Venkatesh, Advocate, 806,Valnut, RaintreeApratment, Chinnakakani,
Mangalagiri, Guntur District. Cell No.9848335650
Smt.Peddireddy Paparatnam, D/o.late Desamsetty Surya Rao,
R/o. Veerabhadrapuram (V), Addateegala (M),
Alluri Sitharamaraju District.

Copy to:
The P.S. to Hon'ble Dy. Chief Minister (TW)
The P.S. to Secretary (TW).
The Commissioner of Printing, Stationery (for Publication in the AP Gazette),
Vijayawada.
SF/SC.

// FORWARDED : : BY ORDER//

SECTION OFFICER